



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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JUL 11 2017

RE: MUR 6858
Malone People Action Committee-Delegate
Glenridge A. Pole, Treasurer

Dear Mr. Goldman:

On August 4, 2014, the Federal Election Commission notified your clients, Malone People Action Committee-Delegate and Glenridge A. Pole in his official capacity as treasurer ("Committee"), of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon review of the allegations contained in the complaint, and information provided by your clients, the Commission, on June 8, 2017, found that there is reason to believe Malone People Action Committee-Delegate and Glenridge A. Pole in his official capacity as treasurer violated 52 U.S.C. § 30104 (a) and (b), provisions of the Act, by failing to report an in-kind contribution. The Factual and Legal Analysis, which formed the basis for the Commission's finding, is enclosed for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the Office of the General Counsel within 15 days of receipt of this notification. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. See 52 USC § 30109(a)(4).

Please note that you and your clients have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified in writing that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

If you are interested in pursuing pre-probable cause conciliation, you should make such a request by letter to the Office of the General Counsel. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission

1 The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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6 **RESPONDENTS:** Malone People Action Committee-Delegate MUR: 6858
7 Glenridge A. Pole in his official capacity as treasurer
8

9 **I. INTRODUCTION**

10 Complainant alleges that Shawn Michael Malone ("Malone"), a 2014 candidate in the
11 Democratic primary for the Virgin Islands Delegate to the House of Representatives, and his
12 principal campaign committee, Malone People Action Committee-Delegate and Glenridge A.
13 Pole in his official capacity as treasurer (the "Committee"), used non-federal resources available
14 to Malone as President of the Virgin Islands Territorial Legislature ("VI Senate") to support his
15 federal campaign. Complainant also alleges that the Committee failed to accurately report
16 financial activity in its initial disclosure report. Finally, Complainant alleges that Malone
17 retaliated against VI Senate staff members who supported his opponent. Respondents summarily
18 deny the allegations.

19 For reasons set forth below, the Commission finds reason to believe that the Committee
20 failed to report the receipt of in-kind contributions in the form of involuntary personal services of
21 prison inmates in violation of the Federal Election Campaign Act of 1971, as amended ("the
22 Act"). The Commission takes no action at this time with respect to the remaining allegations.

23 **II. FACTS**

24 **A. Factual Background**

25 Malone, then President of the VI Senate, filed a Statement of Candidacy to run for
26 Delegate on March 21, 2014, and he designated Malone People Action Committee-Delegate as

1 his authorized committee.¹ The Committee filed its Statement of Organization on the same
2 date.² Malone publicly announced his candidacy on April 4, 2014.³ On April 15, 2014, the
3 Committee filed its 2014 April Quarterly Report covering the period from March 12, 2014,
4 through March 31, 2014.⁴ The Committee did not report any financial receipts or disbursements
5 occurring before March 12, 2014.

6 Complainant first alleges that Malone, his St. Croix campaign manager Marcellino
7 Ventura, and the Committee used inmates from a Virgin Islands prison to set up for a campaign
8 event in December 2013 in St. Croix, and used members of Malone's legislative staff for
9 unspecified federal campaign activity.⁵ Complainant submits an affidavit from and pictures
10 taken by Jonathan Buckney-Small, the husband of Malone's Democratic primary opponent and
11 Complainant, who claims to have seen prison inmates from the VI's Golden Grove Correctional
12 Facility erecting a tent under Ventura's supervision.⁶ The pictures show a large "Malone for
13 Congress" banner hanging next to an assembled tent, and a person wearing orange pants and a
14 white shirt who appears to be assembling another tent.⁷ Four other people appear in the pictures,
15 one of whom Complainant identifies as Ventura. Complainant alleges that Ventura told the other

¹ Statement of Candidacy, Shawn Michael Malone (March 21, 2014);
https://www.facebook.com/Malone2014/about/?ref=page_internal.

² Statement of Organization, Malone People Action Committee-Delegate (March 21, 2014).

³ <https://www.youtube.com/watch?v=lgTo5K0UFP8>.

⁴ <http://docquery.fec.gov/pdf/134/15951153134/15951153134.pdf>.

⁵ Compl. at 1-2 (July 28, 2014).

⁶ *Id.* at 1-2, Affidavit of Jonathan Buckney-Small.

⁷ Complainant states that Plaskett's husband observed the activity on or about December 29, 2013, however Respondents claim that the event occurred on December 26, 2013. Malone Resp. at 1 (Sept. 26, 2014) (joint response of Shawn Michael Malone, Malone People Action Committee-Delegate and Glenridge A. Pole, Treasurer, and Marcellino Ventura); Compl. at 1-2, Ex. A.

1 individuals to stop working and move behind a car when he noticed that Buckney-Small was
2 taking pictures.⁸ Respondents deny using prisoners in connection with the campaign “as
3 alleged.”

4 Complainant also alleges that Malone unlawfully increased the size of his VI Senate staff
5 by hiring five new employees to perform unspecified tasks in connection with his campaign.⁹

6 Complainant further alleges that on November 1, 2013, Malone used VI Senate resources to
7 advertise his campaign by wearing a “Malone for Congress” T-shirt while making a televised
8 speech in his capacity as VI Senate President.¹⁰

9 Complainant further alleges that Malone misreported the campaign’s financial activity by
10 omitting expenses for the following campaign activities:

- 11 • On November 1, 2013, Malone and campaign staff wore “Malone for Congress”
12 t-shirts during the televised speech mentioned above. Malone campaign staff also
13 flew a banner and gave away toys during the event.
- 14 • In December 2013 and January 2014, Malone campaign staff distributed more
15 than 500 towels during a festival.
- 16 • In February 2014, Malone and his campaign staff wore and distributed campaign
17 shirts at an Agricultural Fair.
- 18 • Malone’s campaign used paid advertising to announce a February 5, 2014
19 campaign meeting.
- 20 • On February 10-14, 2014,¹¹ Malone’s campaign advertised campaign activities on
21 several radio stations; those activities included food, entertainment, banners,
22 travel, t-shirts, and rally towels, and other giveaways.
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- 24
- 25
- 26

⁸ Compl. at 2, Ex. A.

⁹ Compl. 2, 3.

¹⁰ Id. at 2.

¹¹ Although the Complaint states that this activity took place during “February 2013,” information available in the record suggests the events occurred in February 2014. Compl. at 4.

1 Complainant also alleges that Malone retaliated against VI Senate staff who did not
2 support his campaign, including firing an employee who displayed a bumper sticker supporting
3 his opponent and by withholding promised salary increases to other VI Senate staffers.¹²
4 Respondents summarily deny all of the allegations.

5 **B. Legal Analysis**

6 1. Receipt and Reporting of Prison Inmate Labor

7 Federal candidates, their agents, and entities directly or indirectly established, financed,
8 maintained, or controlled by, or acting on behalf of, federal candidates may not solicit, receive,
9 direct, transfer, or spend funds “in connection with an election for Federal office” unless those
10 funds are subject to the Act’s reporting requirements, limitations, and prohibitions.¹³

11 Complainant alleges that Malone, Ventura, and the Committee violated the Act by using
12 VI government resources in support of Malone’s campaign for Delegate. As a United States
13 territory, the Virgin Islands are considered a State under the Act, and a State government is a
14 person subject to the Act’s contribution limit, which was \$2,600 in the 2014 election cycle.¹⁴

15 The sworn eyewitness evidence, documented by photographs, substantiate the allegation
16 that Malone and the Committee received the benefit of involuntary personal services of prisoners
17 who were directed to set up a tent for a campaign event. The alleged coercion of prisoner labor
18 in the service of a political campaign cannot be simply dismissed by this Commission. At a
19 minimum, the failure to report the financial value of the labor received as an in-kind contribution

¹² Id. at 2-3.

¹³ 52 U.S.C. § 30125(e)(1); 11 C.F.R. § 300.61. A “candidate” for “federal office” includes a candidate for Delegate to Congress. 52 U.S.C. § 30101(2), (3).

¹⁴ 52 U.S.C. § 30101(12); 11 C.F.R. § 100.11; MUR 5135 (George W. Bush) First General Counsel’s Report at 4-6; Advisory Op. 1999-07 (Minnesota Secretary of State).

1 is a violation of the Act. Accordingly, the Commission finds reason to believe that Malone
2 People Action Committee-Delegate and Glenridge A. Pole in his official capacity as treasurer
3 violated 52 U.S.C. § 30104(a) and (b).

4 2. Other Allegations

5 The Complaint makes other allegations regarding the Committee's misuse of public
6 resources, the coercion of one or more public employees, the failure to report certain receipts and
7 expenditures, and Malone's wearing of a t-shirt advocating his election during an official speech.
8 Many of these allegations are vague or inadequately substantiated. However, in light of the
9 Commission's decision to investigate the Committee's receipt and failure to report in-kind
10 contribution of prison inmate services, the Commission has decided to take no action at this time
11 with respect to these remaining allegations and the conduct of Malone and Ventura.